



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:)
)
AMBITECH, INC.,)
) U.S. EPA Docket No. 9-2007-0007
JAMES JANDA, and AMERICA JANDA) UNILATERAL ADMINISTRATIVE
) ORDER FOR THE PERFORMANCE
) OF A REMOVAL ACTION
Proceeding Under Section 106(a))
of the Comprehensive Environmental)
Response, Compensation, and)
Liability Act of 1980,)
42 U.S.C. § 9606(a).)
_____)

I. AUTHORITY

1. This Unilateral Administrative Order ("Order") is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, and the Small Business Liability Relief and Brownfields Revitalization Act of 2002 ("CERCLA"). The President delegated this authority to the Administrator of the United States Environmental Protection Agency ("EPA" or "Agency") by Executive Order 12580, January 23, 1987, 52 Fed. Reg. 2923. The Administrator further delegated the authority to the Assistant Administrator for Solid Waste and Emergency Response and to the Regional Administrators with EPA Delegation Nos. 14-14-A and 14-14-B. This authority has been duly redelegated to the Branch Chief, Superfund Division, EPA Region 9 ("Branch Chief"), by delegations dated September 29, 1997, and November 16, 2001.

II. PARTIES BOUND

2. This Order shall apply to and be binding on the following entities and individuals: Ambitech, Inc. ("Ambitech") and James and America Janda (the "Jandas"), collectively referred to in this Order as the "Respondents." This Order shall be binding on Respondents and any agents, officers, employees, successors, and assigns. No change in ownership or operational status will alter a Respondent's obligations under this Order. Notwithstanding the terms of any contract or agreement, Respondents are responsible for compliance with this Order and for ensuring that their employees, contractors, and agents comply with this Order. Respondents shall provide a copy of this Order to all contractors, subcontractors, and consultants that are retained by them to perform the work required by this Order within three (3) days after the Effective Date of this Order or within three (3) days of retaining their services, whichever is later.

3. Respondents may not convey any title, easement, or other interest that they may have in any property constituting the Site, as the term "Site" is defined below, without a provision permitting the continuous implementation of the provisions of this Order. If Respondents wish to transfer any title, easement, or other interest that they may have in any property constituting the Site, Respondents shall provide a copy of this Order to any subsequent owner(s) or successor(s) before any ownership rights are transferred. In such case, Respondents shall advise EPA, as soon as practical, prior to any anticipated transfer of interest.

III. DEFINITIONS

4. Unless otherwise expressly provided herein, the terms used in this Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever the terms listed below are used

in this Order, or in the exhibits attached hereto and incorporated hereunder, the following definitions shall apply:

“Days” shall mean consecutive calendar days unless expressly stated otherwise.

“Working days” shall mean consecutive calendar days other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Order where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business on the next working day.

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 and by the Small Business Liability Relief and Brownfields Revitalization Act of 2002, 42 U.S.C. § 9601 et seq.

“Unilateral Order” or “Order” shall mean this Unilateral Administrative Order, EPA docket number 9-2007-0007, and any attachments hereto. In the event of a conflict between this Order and any attachment, this Order shall control.

“EPA” shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

“National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300.

“Paragraph” shall mean a portion of this Order identified by an Arabic numeral.

“Response Action” shall be those specific work items that Respondents are required to perform at the Site pursuant to this Order, as set forth in Section IX of this Order.

“Section” shall mean a portion of this Order identified by a Roman numeral,

unless otherwise stated.

"Site" shall mean the real property located at 8944 Fullbright Avenue, Chatsworth, County of Los Angeles, California, and it shall include any buildings, improvements, and associated personal property, such as motor vehicles, trailers, and containers, as well as any other real property at which hazardous substances exist as a result of operations at the Site.

"State" shall mean the state of California, and all of its political subdivisions, including the Department of Toxic Substances Control ("DTSC").

"United States" shall mean the United States of America.

IV. FINDINGS OF FACT

Site description

5. The Site is a metals plating facility operated by Ambitech. The Site is located at 8944 Fullbright Avenue, City of Chatsworth, California. It consists of a building (approximately 22,000 square feet), an open storage area behind the building that is surrounded by an eight-foot high fence ("Outside Storage Area"), and an additional caged area within the Outside Storage Area for raw materials and waste storage as well as the wastewater treatment system ("Outside Caged Area"). The area immediately surrounding the Site is zoned for light industrial/commercial uses. Residential neighborhoods lie within half of a mile of the Site.

Site ownership and operation

6. James and America Janda own the Site. Ambitech, which was founded in 1983, is the operator of the Site. Plating operations at the Site ceased between September and November 2005. On April 7, 2006, the Superior Court of California, County of Los Angeles, North Valley District, placed Ambitech and related entities under control of a receiver and appointed a trustee, Phelps Consulting Group ("PCG"), to oversee the receivership process. PCG is currently in

control of Ambitech assets, including the Site. The Jandas have not had access to the Site without supervision or consent of the receiver since April 2006.

7. Ambitech specialized in the fabrication of high-tech, complex, multi-layer printed circuit boards. Its products ranged from mainframe computers, workstations, medical electronics, and oil drilling instrumentation to communications, aerospace, and defense equipment. Ambitech plating lines included electroless copper, acid copper, tin/lead, and nickel/palladium/gold plating. The electroless copper plate used formaldehyde, ethylenediaminetetraacetic acid ("EDTA"), and sodium hydroxide; the acid copper line used copper sulfate and sulfuric acid; the tin/lead plate used tin/lead fluoborate and fluoboric acid; the nickel plate used nickel sulfamate and boric acid; the palladium plate used palladium salts; and the gold plate used gold cyanide. Additional processes included the alternative oxide line that used a resist stripper (monoethanolamine and methanol), alkaline cleaner (sodium hydroxide), an activator, and bondfilm; a solder strip line (nitric acid); an inner layer etch line that used an alkaline etch (cupric ammonium, chloride and carbonate) and resist stripper. The plating lines used a water rinse step following each chemical process. The rinse waters were contaminated with metals and other contaminants which were processed through the wastewater treatment system and discharged to the sewer.

Prior Violations and Enforcement

8. Following an inspection on August 24, 2004, DTSC determined that Ambitech was a large-quantity generator of hazardous waste regulated under RCRA and had numerous Class I violations. On December 22, 2005, DTSC filed a Complaint for Civil Penalties and Injunctive Relief against Ambitech, James Janda, and America Janda in the Superior Court of California. The Court ruled in DTSC's favor and awarded civil penalties and injunctive relief

against the defendants for past and on-going violations of California's Hazardous Waste Control Law (HWCL). DTSC conducted another Site investigation on March 13, 2006, and found both new and continuing Class I HWCL violations.

Release Characteristics

9. When Ambitech ceased plating operations at the Site in the fall of 2005, several thousand gallons of corrosive, flammable, and toxic materials were abandoned at the Site.

10. On October 31, 2006, EPA and DTSC conducted a joint Site inspection of the Ambitech facility. During the inspection, EPA observed large quantities of liquid and solid hazardous waste streams that included caustic, acidic, cyanide-bearing and metal-bearing plating process solutions in plating tanks; various wastewater and spill containment sumps below metal floor grates; containers marked to include hazardous wastes; chemical storage and waste treatment tanks; and a small analytical laboratory.

11. The wastewater treatment filter presses contained hazardous concentrations of copper-laden dried sludge material. Two plating tanks located in the Outside Storage Area contained liquid and dried sludge with total lead concentrations of 2,300 milligrams per liter ("mg/l") and 62,000 milligrams per kilogram ("mg/kg"), respectively.

12. Numerous drums in various conditions were located in the Outside Caged Area. Several of the drums were in poor condition and metal corrosion was evident. Several smaller containers were leaking. DTSC's cleanup contractor placed the leaking containers into secondary non-leaking containers. The drums in the Outside Caged Area were segregated in each area by hazard class (i.e., flammables, corrosives, oxidizers). Some of the drums were marked to indicate that they contained hazardous wastes. However, some drums were unlabelled, the label was worn and illegible, or the bung opening was not capped. Some of the

drums had no accumulation start date or they exceeded the accumulation start date. DTSC collected samples from these containers and drums.

13. In the northeast corner of the building was bulk storage of chemical feedstock in several large poly tanks. A large industrial blower unit was located in this area. The blower was operating at the time of the inspection. The blower was used to dissipate chemical vapors emanating from the plating lines. In the area between the raw material storage and the waste storage was the wastewater treatment system, consisting of several large tanks and associated pumps, valves, and pipelines.

14. The Outside Storage Area, which is paved with asphalt, was congested with empty tanks, containers, used processing equipment, and other miscellaneous items. The Outside Storage Area is surrounded by a fence; one gate opens to an alley on the north side of the property and one gate opens to an alley on the south side of the property. The alleys are shared by adjacent manufacturing facilities.

15. The building structure, concrete flooring, chemical storage areas, and plating lines appeared to be in better condition than most abandoned plating shops. While in operation, it appeared that spills and leakage onto the floors were cleaned up and equipment was maintained. However, since the facility ceased operations, the plating equipment and piping have deteriorated due to the absence of routine maintenance (most plating shops have a very corrosive environment and need to be maintained on a daily basis).

16. EPA observed leakage on several pieces of equipment within the building, primarily along transfer pipelines and pipe joints. The leakage was either liquid or crystalline material; there were numerous areas where leakage around pipe joints and connections had changed from a liquid state to a crystalline solid.

17. EPA observed a highly unsafe situation in the raw material area, where tall wooden scaffolding that was used to support two large gravity-feed polyethylene ("poly") tanks was leaning several degrees and appeared to be very unstable. The contents of the two poly tanks were unknown, but they appeared to be empty or nearly empty. If the scaffolding collapsed, it could damage chemical drums in storage below the tall wooden structure.

18. The Chatsworth Fire Chief has indicated that the Site is in a high-crime area. There were no security guards or persons working in the building but the doors are kept locked and PCG installed an alarm system on the main doors at the time it assumed control of the property. The perimeter fencing was generally in good condition. But in the northeast corner of the Site, where the ends of the fences are connected with heavy chain, the chain can be stretched such that a child could climb through the opening and into the Outside Storage Area.

19. DTSC collected liquid and solid samples at 22 locations, including but not limited to the electroplating process areas, the Outside Caged Area, and the Outdoor Storage Area in order to determine the hazardous waste characteristics of the waste streams on (1) the nickel/palladium/gold cyanide, electroless copper, and acid copper plating lines; (2) the inner layer etch line; and (3) in deteriorated, leaking, and/or unlabelled containers and drums.

20. The analytical results of the samples collected at the Site show elevated and hazardous waste-determining concentrations of heavy metals, including nickel, copper, silver, and total lead. Significant concentrations of nickel, copper, and total lead were detected in waste materials stored in plating tanks and containers located in the Outside Storage Area. Samples collected by DTSC during the inspection revealed that wastes on Site had concentrations in excess of the California Total Threshold Limit Concentration, including 410,000 mg/kg of

copper, 62,000 mg/kg of lead, 13,000 mg/kg of nickel, and 1,500 mg/kg of silver. In addition, many of the samples had a pH of less than 2.0.

21. In addition to the sampling referred to above, EPA conducted an inventory of other hazardous substances located on Site. The inventory is included as an attachment to EPA's Action Memorandum, which can be found in the administrative record for the Site. The following is a summary table of the hazard classes and estimated volumes documented during the assessment:

Hazard Classes	Estimated Volumes (in gallons)
Corrosive	2,756
Toxic/Corrosive	533
Toxic/Flammable	500
Flammable	239
Unknown	255
Toxic	200
Total Estimated Volume	4,483

22. Based on the observed and documented Site conditions, deterioration of electroplating equipment, the presence of containers and drums containing high concentrations of toxic and hazardous substances, observed leakage from several containers and process pipelines, and the unmanaged nature of the facility, EPA has determined that there may be an imminent and substantial endangerment to public health, welfare, and the environment.

23. Threats to public health or the environment stem from the significant potential for releases due to vandalism, weather, fire, and deteriorating containers. Vandalism, fire, and deteriorating containers create an imminent and substantial threat of a catastrophic release of hazardous substances at the Site, and the migration of hazardous substances from the Site.

24. The administrative record supporting this action is available for review at the EPA, Region 9 offices located at 75 Hawthorne Street, San Francisco, California.

V. CONCLUSIONS OF LAW

25. The Site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

26. Ambitech and the Jandas are each a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

27. The Jandas are the current owners of the Site. Ambitech is the current operator at the Site. Accordingly, these Respondents are "liable" within the meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a)(1), and are subject to this Order under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

28. The corrosive, flammable, and toxic materials identified in the Action Memorandum are "hazardous substances" as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). Hazardous substances in containers or barrels that are abandoned at the Site or that are leaking or threatening to leak constitute a "release," as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

29. The actual or threatened release of hazardous substances from the Site constitutes an imminent and substantial endangerment to the public health or welfare or the environment, within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

VI. DETERMINATIONS

Based on the Findings of Fact and the Conclusions of Law stated herein, the Branch Chief has made the following determinations:

30. That an actual or threatened release of hazardous substances from the Site

presents an imminent and substantial endangerment to the public health or welfare or the environment.

31. That, based on the factors stated in the NCP at 40 C.F.R. § 300.415(b), conditions at the Site constitute a threat to public health or welfare or the environment and that the actions required by this Order are necessary to protect the public health or welfare or the environment.

32. That the actions required by this Order, if properly performed, will be consistent with the NCP, and are appropriate to protect the public health or welfare or the environment.

VII. NOTICE TO THE STATE

33. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), EPA has notified the State of the issuance of this Order by providing a copy of this Order.

VIII. EFFECTIVE DATE

34. This Order is deemed effective on receipt (the "Effective Date"), unless a conference is requested as provided herein. If such a conference is requested, this Order shall be effective the second day following the day of such conference unless modified in writing by EPA.

IX. ORDER

35. Based on the Findings of Fact, Conclusions of Law, and Determinations, EPA hereby orders Respondents to perform the specific work set forth below under the direction of the EPA On-Scene Coordinator ("OSC"), as designated in Section XIV, and to comply with all requirements of this Order until EPA provides notice that the Response Action is complete.

A. Work to be Performed

36. Respondents shall immediately restrict access to the Site and, for the duration of the Response Action required by this Order, Respondents shall not allow any materials,

equipment, or any other personal property to be removed from or brought onto the Site without prior EPA approval.

37. Within five (5) days after the Effective Date of this Order, Respondents shall submit a Work Plan to EPA for approval. The Work Plan shall address the removal of hazardous substances from the Site. The Work Plan shall provide a concise description of the activities necessary to comply with the requirements of this Order, and shall include a proposed schedule for implementing and completing such activities. The Work Plan shall comply with the guidelines for preparation provided in Paragraph 39, below, and at a minimum, shall require the Respondents to perform and complete the following removal activities within twenty (20) days after EPA approves the Work Plan pursuant to Paragraphs 39 and 42 of this Order:

- A) Identify all chemical compounds in all tanks, drums, and other containers at the Site. Conduct sampling and analysis of unknown chemicals and all chemicals in containers without marks or labels or with unreadable marks or labels. In addition, identify all chemical compounds found in sumps and drains at the Site. Characterize any contaminated equipment and structures for proper disposal, decontamination, or other disposition. The equipment and structures to be characterized include, but are not limited to, equipment and structures used for metal plating, cleaning, etching, bonding, stripping, printing, and imaging. Characterize the equipment and structures associated with the waste and wastewater collection, drainage, and treatment systems.
- B) Segregate all hazardous substances to ensure incompatible substances pose no threat of violent reaction, fire, or explosion; remove potentially reusable

chemicals to a solid waste disposal or recycling facility approved by the OSC or return them to distributor/manufacturer.

- C) Properly containerize all hazardous substances at the Site into Department of Transportation specification packaging. Transport, dispose of, or recycle the hazardous substances in accordance with all applicable or appropriate regulations. Each transfer of hazardous substances, pollutants or contaminants off Site must be consistent with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and with EPA procedures for planning and implementing off-Site Response Actions established at 40 C.F.R. § 300.440.
- D) Perform air monitoring and sampling in accordance with Occupational Safety and Health Administration ("OSHA") regulations during appropriate phases of the removal action, especially when there is a potential for airborne releases of toxic air contaminants. Use operational controls such as dust containment or suppression to abate fugitive dust emissions. The Site-specific Health and Safety Plan must meet OSHA's criteria at 29 C.F.R. § 1910.120 and must be maintained at the Site during all phases of the response.
- E) Submit a soil sampling plan to EPA for approval within five (5) days of the conclusion of work described in sub-paragraphs A through D above. The purpose of the soil sampling plan is to determine the extent of soil contamination beneath and adjacent to the Outside Storage Area, the Outside Caged Area and any other sensitive areas identified throughout the course of work. At a minimum, soil sampling shall characterize the zone between the surface and five (5) feet below

ground surface, except as may be deemed necessary by EPA to protect soils and groundwater and control exposures to high contaminant concentrations.

- F) Submit a plan for disposal, stabilization, or treatment of contaminated soils found at or near the surface. Any necessary cleanup work shall be done at the direction of the OSC and pursuant to the plan developed and approved as directed above.
- G) Provide EPA with copies of all documentation related to off-Site disposal or other disposition of wastes including, but not limited to, manifests, waste profiles, and analytical data and disposal costs.

38. Before the close of business on January 25, 2007, the Respondents shall provide EPA with documentation that adequately demonstrates their financial ability to complete the work required in this Order. Examples of adequate financial documentation that EPA may accept include, but are not limited to, a signed contract or guarantee on the part of the Respondents' contractor that it will complete the work to be performed, a letter of credit from a financial institution, or an escrow account for the value of the work to be performed.

39. The Work Plan required in Paragraph 37 shall be reviewed by EPA. EPA may approve, disapprove, require revisions to, or modify the Work Plan. Respondents shall prepare the Work Plan elements required by Paragraphs 37(E) and 37(F) as a separate document for approval. Once approved, each element of the Work Plan shall be deemed to be incorporated into and made a fully enforceable part of this Order. The Respondents shall implement the Work Plan as finally approved by the EPA. In addition to the requirements listed in Paragraph 37, the Work Plan shall include:

- A) A Site-specific Health & Safety Plan, prepared in accordance with EPA's Superfund Standard Operating Safety Guide, dated June 1992, which complies

with all current OSHA regulations applicable to Hazardous Waste Operations and Emergency Response, found at 29 C.F.R. Part 1910. Respondents shall incorporate all changes to the Health & Safety Plan recommended by EPA and implement the Health & Safety Plan throughout the performance of the removal action; and

- B) A Site-specific Quality Assurance Project Plan ("QAPP") that is consistent with the following: EPA Guidance for Quality Assurance Project Plans (EPA QA/G-5); a U.S. EPA Region 9 Field Sample Plan for EPA-Lead Superfund Projects (Document Control No.: 9QA-05-93); and Guidance for the Data Quality Objectives Process (EPA QA/G-4). Soil sampling activities shall utilize proper soil assessment techniques as defined in EPA Document SW-846, Chapter 9 (EPA Environmental Response Team Standard Operating Procedures) or appropriate American Society for Testing and Materials ("ASTM") standards.

40. Within fifteen (15) days after completing the Response Action (after all hazardous substances and/or wastes have been transported for disposal or recycling),⁶ Respondents shall provide EPA with a final, written summary report. This report should contain a summary of the activities undertaken to comply with this Order as well as all invoices submitted by contractors (which shall identify specific work performed), and copies of all analytical data generated during the response action.

41. All documents, including technical reports and other correspondence to be submitted by the Respondents pursuant to this Order, shall be sent by over-night mail to the

following addressee or to such other addressees as EPA hereafter may designate in writing:

Dan Shane, Federal On-Scene Coordinator
Superfund Division (SFD-9-2)
EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105

All documents shall be deemed submitted on the date they are received by EPA.

Respondents shall submit two (2) copies of each document to EPA.

42. EPA shall review, comment on, and approve or disapprove each plan, report, or other deliverable submitted by Respondents. All EPA comments on draft deliverables shall be incorporated by the Respondents. EPA shall notify the Respondents in writing of EPA's approval or disapproval of a final deliverable. In the event of any disapproval, EPA shall specify the reasons for such disapproval, the modifications required, and a time frame for submission of the revised report, document, or deliverable. If the modified report, document, or deliverable is again disapproved by EPA, EPA shall notify the Respondents of its disapproval. EPA may, at any time, draft its own report, document, or deliverable and incorporate it as part of this Order; seek penalties from the Respondents for failing to comply with this Order; and conduct the remaining work required by this Order and seek to recover costs from Respondents.

43. For purposes of this Order, EPA's authorized representatives shall include, but not be limited to, consultants and contractors hired by EPA to oversee the activities required by this Order.

B. Selection of Contractor(s) and Subcontractor(s)

44. All work performed by or on behalf of Respondents pursuant to this Order shall be performed by qualified individuals or contractors with expertise in hazardous waste site investigation or remediation, unless agreed otherwise by EPA. By the close of business on

January 25, 2007, Respondents shall notify EPA in writing of the name, title and qualifications of the individual(s) who will be responsible for carrying out the terms of this Order, and the name(s) of any contractor(s) or subcontractor(s). The qualifications of the persons, contractors, and subcontractors undertaking the work for Respondents shall be subject to EPA review and approval.

45. If EPA disapproves of any person's or contractor's technical qualifications or work-experience qualifications, EPA will notify the Respondents in writing. Respondents shall, within five (5) working days of Respondent's receipt of EPA's written notice, notify EPA of the identity and qualifications of the replacement(s). Should EPA disapprove of the proposed replacement(s), Respondents shall be deemed to have failed to comply with the Order.

46. Respondents may propose to change the individual(s), contractor(s), or subcontractor(s) retained to direct and supervise the work required by this Order. If Respondents wish to propose such a change, Respondents shall notify EPA in writing of the name, title, and qualifications of the proposed individual(s), proposed contractor(s), or proposed subcontractor(s), and such individual(s), contractor(s) or subcontractor(s) shall be subject to approval by EPA in accordance with the terms of Paragraphs 44 and 45, above. The naming of any replacement(s) by Respondents shall not extend any deadlines required by this Order nor relieve the Respondents of any of their obligations to perform the work required by this Order.

47. Respondents will notify EPA of the commencement of any on-Site activities that are part of the Response Action at least twenty-four (24) hours before initiating them so that EPA may adequately schedule oversight tasks.

48. Respondents shall submit to EPA a certification that Respondents or their contractor(s) and subcontractor(s) have adequate insurance coverage or other ability, subject to

approval of EPA, to compensate for liabilities for injuries or damages to persons or property that may result from the activities to be conducted by or on behalf of Respondents pursuant to this Order. Adequate insurance shall include comprehensive general liability insurance and automobile insurance with limits of one million dollars, combined single limit. If the Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then the Respondents need provide only that portion of the insurance described above that is not maintained by such contractor or subcontractor. Respondents shall ensure that such insurance or indemnification is maintained for the duration of performance of the work required by this Order. Respondents shall ensure that the United States is named as an additional insured on any such insurance policies.

C. General Provisions

49. All work required by this Order shall be conducted in accordance with: CERCLA; the NCP; EPA Region 9 "Guidance for Preparing Quality Assurance Project Plans for Superfund Remedial Projects" (EPA, November 1992); any final amended or superseding versions of such documents provided by EPA; other applicable EPA guidance documents; any Work Plan or individual components approved pursuant to Paragraph 39 of this Order; and any report, document, or deliverable prepared by EPA because Respondents failed to comply with this Order.

50. All plans, schedules, and other reports that require EPA's approval and are required to be submitted by the Respondents pursuant to this Order shall, after approval by EPA, be incorporated into and enforceable under this Order.

51. EPA will oversee Respondents' activities as specified in Section 104(a)(1) of

CERCLA, 42 U.S.C. § 9604(a)(1). Respondents will support EPA's initiation and implementation of activities needed to carry out its oversight responsibilities. Respondents also shall cooperate, and coordinate the performance of all work required to be performed under this Order with all other work being performed at the Site, including work performed by EPA, the State, or any other party performing work at the Site with the approval of EPA.

52. Respondents shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations, except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

X. NOTICE OF INTENT TO COMPLY

53. Before the close of business on January 25, 2007, Respondents shall provide written notice to EPA of their irrevocable intent to comply with this Order. Failure to respond, or failure to agree to comply with this Order, shall be deemed a refusal to comply with this Order.

XI. OPPORTUNITY TO CONFER

54. By the close of business on January 23, 2007, Respondents may request a conference with the Section Chief of the Emergency Response Section in the Response, Planning, and Assessment Branch in the EPA Region 9 Superfund Division, or whomever the Section Chief may designate. If a conference is requested, it shall occur before the close of business on January 25, 2007, unless extended by mutual agreement of the Parties. The conference shall, according to EPA's discretion, be conducted either by phone or at EPA's

Regional Office, 75 Hawthorne Street, San Francisco, California.

55. At any conference held pursuant to Respondents' request, the Respondents may appear in person, or be represented by an attorney or other representative. If Respondents desire such a conference, Respondents shall contact Michael Massey, EPA Attorney, at (415) 972-3034.

56. The purpose and scope of any such conference held pursuant to this Order shall be limited to issues involving the implementation of the Response Action required by this Order and the extent to which Respondents intend to comply with this Order. If such a conference is held, the Respondents may present any evidence, arguments, or comments regarding this Order, its applicability, any factual determinations on which the Order is based, the appropriateness of any action that the Respondents are ordered to take, or any other relevant and material issue. Any such evidence, arguments, or comments should be in writing and submitted to EPA within three (3) days following the conference. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondents a right to seek review of this Order, or to seek resolution of potential liability, and no official record of the conference will be made. If no conference is requested, any such evidence, arguments or comments must be submitted in writing within three (3) days following the Effective Date of this Order. Any such writing should be directed to Michael Massey, at the following address:

Office of Regional Counsel (ORC-3)
EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105

57. Respondents are hereby placed on notice that EPA will take any action that may be necessary in the opinion of EPA for the protection of public health and welfare and the

environment, and Respondents may be liable for the costs of those actions under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

XII. ENDANGERMENT AND EMERGENCY RESPONSE

58. In the event of any action or occurrence during the performance of the work that causes or threatens to cause a release of a hazardous substance or that may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action(s) to prevent, abate, or minimize the threat, and shall immediately notify EPA's primary OSC, or, if the primary OSC is unavailable, EPA's alternate OSC, as designated below in Paragraph 64. If neither of these persons is available, Respondents shall notify the EPA Emergency Response Unit, Region 9, by calling (800) 300-2193. Respondents shall take such action(s) in consultation with EPA's OSC and in accordance with all applicable provisions of this Order, including but not limited to the approved Health & Safety Plan.

59. Nothing in the preceding Paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances at or from the Site.

XIII. MODIFICATION OF WORK REQUIRED

60. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA OSC by telephone within twenty-four (24) hours of discovery of the unanticipated or changed circumstances. This verbal notification shall be followed by written notification postmarked within three (3) days of discovery of the unanticipated or changed circumstances.

61. The Branch Chief may determine that, in addition to tasks addressed herein,

additional work may be required to address the unanticipated or changed circumstances referred to in Paragraphs 58 and 60. Where consistent with Section 106(a) of CERCLA, the Branch Chief may direct, as an amendment to this Order, that Respondents perform these tasks in addition to those required herein. Respondents shall implement the additional tasks that the Branch Chief identifies. The additional work shall be completed according to the standards, specifications, and schedules set forth by the Branch Chief in any modifications to this Order.

XIV. DESIGNATED PROJECT MANAGERS

62. EPA designates Dan Shane, an employee of EPA Region 9, as its primary OSC and designated representative at the Site, who shall have the authorities, duties, and responsibilities vested in the OSC by the NCP. This includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Order or undertake the Response Action (or portions of the Response Action) when conditions at the Site present or may present a threat to public health or welfare or the environment as set forth in the NCP. Within three (3) days of the Effective Date of this Order, Respondents shall designate a Project Coordinator who shall be responsible for overseeing Respondents' implementation of this Order. To the maximum extent possible, all oral communications between Respondents and EPA concerning the activities performed pursuant to this Order shall be directed through EPA's OSC and Respondents' Project Coordinator. All documents, including progress and technical reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be delivered in accordance with Paragraph 41, above.

63. EPA and Respondents may change their respective OSC and Project Coordinator. Notification of such a change shall be made by notifying the other party in writing at least five (5) days prior to the change, except in the case of an emergency, in which case notification shall

be made orally followed by written notification as soon as possible.

64. Consistent with the provisions of this Order, the EPA designates Pete Guria as an alternate OSC for the Site, in the event Dan Shane is not present at the Site or is otherwise unavailable. During such times, Pete Guria shall have the authority vested in the OSC by the NCP, as set forth in Paragraph 62 above.

65. The absence of the EPA OSC from the Site shall not be cause for the stoppage of work. Nothing in this Order shall limit the authority of the EPA OSC under federal law.

XV. SITE ACCESS

66. Respondents shall permit EPA and its authorized representatives, including its contractors and the State, to have access at all times to the Site to monitor any activity conducted pursuant to this Order and to conduct such tests or investigations as EPA deems necessary. Nothing in this Order shall be deemed a limit on EPA's authority under federal law to gain access to the Site.

67. To the extent that Respondents require access to property in order to carry out the terms of this Order, Respondents shall, within a reasonable time to implement the requirements of this Order, obtain access for: EPA, its contractors, oversight officials, or other authorized representatives; state oversight officials or contractors; and Respondents and their authorized representatives. If Respondents fail to gain access within the time period necessary to implement the requirements of this Order, Respondents shall continue to use best efforts to obtain access until access is granted. For purposes of this Paragraph, "best efforts" include, but are not limited to, the payment of money as consideration for access. If access is not provided within the time referenced above, EPA may obtain access under Sections 104(e) or 106(a) of CERCLA and recover any costs incurred pursuant to Section XVI of this Order.

XVI. REIMBURSEMENT OF OVERSIGHT COSTS

68. Respondents shall reimburse EPA, on written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order, unless otherwise exempted from this requirement by federal law. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. Respondents shall, within thirty (30) days of receipt of the bill, remit by cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Region 9 Superfund
P.O. Box 371099M
Pittsburgh, PA 15251

Respondents shall send a cover letter with any check and the letter shall identify the Ambitech Site by name and make reference to this Order, including the EPA docket number stated above. Respondents shall simultaneously send notification of any amount paid, including a photocopy of the check, to the EPA OSC.

69. Interest at the rate established under Section 107(a) of CERCLA shall begin to accrue on the unpaid balance from the due date of the original demand notwithstanding any dispute or objection to any portion of the costs.

XVII. DELAY IN PERFORMANCE

70. Any delay in the performance of any requirement of this Order that, in the EPA's sole judgment and discretion, is not properly justified by Respondents under the terms of this Section shall be considered a violation of this Order. Any delay in performance of any requirement of this Order shall not affect any other obligation of Respondents under the terms

and conditions of this Order.

71. Respondents shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's primary OSC within twenty-four (24) hours after Respondents first knew or should have known that a delay might occur. Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within three (3) days after notifying EPA by telephone, Respondents shall provide written notification fully describing the nature of the delay, any justification for delay, any reason why the Respondents should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order are not justifications for any delay in performance.

72. If Respondents are unable to perform any activity or submit any document within the time required under this Order, the Respondents may, prior to the expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay. The submission of an extension request shall not itself affect or extend the time to perform any of Respondents' obligations under this Order.

73. If EPA determines that good cause exists for an extension of time, it may grant a request made by Respondents pursuant to Paragraph 72 above, and specify in writing to the Respondents the new schedule for completion of the activity or submission of the document for which the extension was requested.

XVIII. RECORD PRESERVATION

74. Respondents shall maintain, during the pendency of this Order and for a minimum

of five (5) years after EPA provides notice to Respondents that the work has been completed, a depository of the records and documents required to be prepared under this Order. In addition, Respondents shall retain copies of the most recent version of all documents that relate to hazardous substances at the Site and that are in their possession or in the possession of their employees, agents, contractors, or attorneys. After this five-year period, Respondents shall notify EPA at least thirty (30) days before the documents are scheduled to be destroyed. If EPA so requests, Respondents shall provide these documents to EPA.

XIX. ENFORCEMENT AND RESERVATIONS

75. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order or otherwise incurred at the Site and not reimbursed by Respondents. This reservation shall include but not be limited to past costs, direct costs, indirect costs, the costs of oversight, and the costs of compiling the cost documentation to support oversight costs, as well as accrued interest as provided in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

76. Notwithstanding any other provision of this Order, at any time during the Response Action, EPA may perform its own studies, complete the Response Action (or any portion of the Response Action) and seek reimbursement from Respondents for its costs, or seek any other appropriate relief.

77. Nothing in this Order shall preclude EPA from taking any additional enforcement action, including modification of this Order or issuance of additional Orders, taking additional remedial or removal actions as EPA may deem necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. § 9607(a), *et seq.*, or any other applicable law. Respondents may be liable under CERCLA Section 107(a) for the costs of

any such additional actions.

78. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection, and enforcement authorities, and rights under CERCLA, the Resource Conservation and Recovery Act, or any other applicable statutes or regulations.

79. Notwithstanding compliance with the terms of this Order, including the completion of the EPA-approved Response Action, Respondents are not released from liability, if any, for any enforcement actions taken by EPA beyond the terms of this Order.

80. EPA reserves the right to take any enforcement action pursuant to CERCLA or any other legal authority, including the right to seek injunctive relief, monetary penalties, reimbursement of response costs, and punitive damages for any violation of law or this Order.

81. EPA expressly reserves all rights and defenses that it may have, including the EPA's right both to disapprove of work performed by Respondents and to request the Respondents to perform tasks in addition to those detailed in Section IX of this Order.

82. This Order does not release Respondents from any claim, cause of action, or demand in law or equity, including, but not limited to, any claim, cause of action, or demand that lawfully may be asserted by representatives of the United States or the State.

83. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents will be construed as relieving Respondents of their obligation to obtain such formal approval as may be required by this Order.

XX. SEVERABILITY

84. If any provision or authority of this Order or the application of this Order to any circumstances is held by a court to be invalid, the application of such provision to other

circumstances and the remainder of this Order shall not be affected thereby, and the remainder of this Order shall remain in force.

XXI. DISCLAIMER

85. The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or their employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. Neither EPA nor the United States shall be held as a party to any contract entered into by Respondents, or their employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. This Order does not constitute a pre-authorization of funds under section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

XXII. PENALTIES FOR NONCOMPLIANCE

86. Respondents are advised pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), that violation of this Order or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject Respondents to a civil penalty of up to \$32,500 per day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Order, or any portion thereof, also may subject Respondents to liability for punitive damages in an amount three times the amount of any cost incurred by the government as a result of the failure of Respondents to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3).

XXIII. TERMINATION AND SATISFACTION

87. The provisions of this Order shall be deemed satisfied on Respondents' receipt of written notice from EPA that Respondents have demonstrated to the satisfaction of EPA that all

of the terms of this Order, including any additional tasks that EPA has determined to be necessary, have been completed.

Unilateral Administrative Order 9-2007-0007

IT IS SO ORDERED:

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

By: 

Date: 1/19/07

for

Daniel A. Meer
Branch Chief, Response, Planning and Assessment Branch
EPA, Region 9

EPA Region 9 Contacts:

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